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Pedro Cardim

Political Status and Identity: Debating the Status of American Territories across the Sixteenth and Seventeenth Century Iberian World

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Abstract

This article focuses on the debates that took place across the Iberian world on the political status of the American territories throughout the 16th and 17th centuries. I begin by tracing the *constitutional* place allotted to the American territories in each of the two Iberian polities. Subsequently, I demonstrate that the political status initially ascribed to the so-called Indies soon became a matter of discussion. At the center of the analysis are the exchanges between institutions in Madrid and Lisbon, on the one hand, and Creole groups in Spanish and Portuguese America, on the other. I focus on the debates generated by the two following topics: first, the rank of the representative assemblies formed in the Asian and American territories under the rule of the two Iberian polities, and second, the participation of American and Asian representatives in the parliaments of Castile and Portugal. This article explores the constitutional implications of these debates.

Pedro Cardim

Political Status and Identity: Debating the Status of American Territories across the Sixteenth and Seventeenth Century Iberian World*

The sixteenth and seventeenth century Iberian polities were conglomerates comprised of a variety of territories, each with a specific political status. Territorial conglomerations were relatively common in Western Europe during the period. However, when compared to other Western European political entities, Portugal and the Spanish monarchy were different in one respect: they were the first to include a series of American, African, and Asian territories.[1]

From the point of view of those in central government, the incorporation of African, Asian, and American lands called for significant political and jurisdictional adaptation. Just as had been the case when additional European territories were incorporated into the Habsburgs' dominions, it became necessary to find a *constitutional* place for extra-European lands. Royal authorities were forced to find the most appropriate position, in constitutional terms, in which to situate their American, African, and Asian holdings.[2] They also sought to establish a form of government suited to such lands, for it was evident to all that this would be essential to maintaining the political stability of the two Iberian composite monarchies.[3]

As for the Creole groups of these newly created societies in America, Asia, and Africa, in the early stages they had no option but to accept the status that authorities in Europe assigned them, and they had to accustom themselves to relying on royal institutions based in Europe that treated such extra-European territories as »conquests«, a term with significant political implications.[4] It did not take long for the Creole groups to realize that thereafter they would have to maneuver in a complex political universe at the royal court, and this was precisely the case for the American territories of the two Iberian polities. As vassals of a so-called monarch, that is, a sovereign who governed a conglomeration of politically heterogeneous territories, some with the status of kingdoms, the Creoles from the *Indias de Castilla*, followed by their counterparts from Brazil, began to operate in similar ways to the peoples from peninsular Castile, Aragon, metropolitan Portugal, Catalonia, Valencia, and Navarre, as well as Naples, Milan and Flanders.[5]

The two Iberian conglomerations were composed of such varied territories that the inhabitants of each region were driven to compare their situation vis-à-vis royal authority with those of their many counterparts. This led to an intense debate in the Iberian world over the sixteenth and seventeenth centuries, and comparisons between the many holdings of the Iberian monarchies became extremely frequent.[6]

* This research contributes to the project *Prácticas y saberes en la cultura aristocrática del Siglo de Oro Ibérico: comunicación política y formas de vida*, coordinated by Fernando Bouza Álvarez, Universidad Complutense de Madrid, and funded by the Ministerio de Ciencia e Innovación (HAR2011–27177). This article was initially presented as a conference paper, at the King Juan Carlos I of Spain Center, New York University, on 4 December 2014. I thank Sinclair Thomson, Antonio Feros, Arrigo Amadori, Tamar Herzog, and Alejandro Cañeque for commenting on a preliminary version of this text.

1 Elliott (1998). For a comparative approach with the British world, see Robertson (1998); Canny (2012); Arrieta Alberdi (2009); and Morril (1999).

2 On the jurisdictional order and its classificatory impulse in the process of colonization and settlement in the Americas, see Tomlins (2001) 4 f.; see also Benton / Straumann (2010); Benton / Ross (eds.) (2013).

3 Elliott (2009); Fernández Albaladejo (1999). On the impact of European texts – many of them legal – and crown strategies that examined, defined, and classified the English empire in North America under the Tudor and Stuart dynasties, see MacMillan (2006).

4 Nuzzo (2004); Pagden (2005); see also Ruiz Ibáñez / Sabatini (2009); and Cañizares-Esguerra (2006).

5 Gil Pujol (2012); Tau Anzoátegui (2000); Para seguir con el debate en torno al colonialismo … (2005), with contributions by Jean-Michel Sallmann, Sanjay Subrahmanyam, Annick Lempérière, Carmen Bernand, Gastón Gordillo, and Juan Carlos Garavaglia; Schaub (2008); Annino (2010). For a very recent reassessment, see García Pérez (2015).

6 See, for instance, Salvador Estebán (1998).

The American lands, naturally, were no exception. Right from the start of colonization, likely influenced by the discussion taking place in the European part of the Iberian world, Creole groups in the newly formed societies began to examine their status in comparison to the other territories governed by the Spanish and the Portuguese. At the same time, the other territories turned their attention to these new extra-European members of the Iberian monarchies and began to position themselves against their elites and their ambitions.[7]

Both the Spanish monarchy and Portugal thus set the stage for the ruling groups of their territories to emulate one another and shape their demands accordingly. Involving European and extra-European peoples, this emulation generated a series of debates, recorded in a broad variety of materials, ranging from doctrinal treatises and jurisprudence to other genres, such as writings of political counsel (often called *arbitrios*), municipal correspondence, sermons preached in colonial settings, printed pamphlets, and images, both painted and engraved. This article attends to these debates.

Over the past two decades, the number of studies on early-modern European empires has increased significantly, with historians exploring the many dimensions of European domination in Africa, Asia, and the Americas. However, instead of concentrating on the institutional aspects of colonialism, these surveys have taken a more social stance. Subordinate members of American, African, and Asian societies and their responses to European rule were put at the center of the analysis. A significant number of surveys highlighted the agency of people coming from subordinate groups, thoroughly demonstrating that resistance and rejection of European domination was constant throughout the early-modern period. This turn to the social dimension of politics diverted attention from not only the institutional aspects of European rule, but also those responsible for maintaining imperial domination. European agency in the history of imperial domination became less attractive to historians. The same could be said about the Creole groups of Spanish and Portuguese America, their institutions, and their agency.[8]

This study aims to recover those dimensions. Focusing on the debates over one specific aspect of the institutional history of European rule in the Americas, namely the status of American lands within the Iberian monarchies, it examines in depth the categories employed by contemporaries when discussing the status of America during the sixteenth and seventeenth centuries. A detailed analysis of such disputes reveals fundamental aspects of European rule in the Americas. Apart from stressing the historicity of political vocabulary, it demonstrates that the inferior status of American lands was established from the beginning of the colonial period by European authorities. It also indicates that Creole groups in Spanish and Portuguese America constantly disputed this status, engaging in a debate that lasted the entire colonial period. This survey, therefore, concentrates primarily on the European and Creole perspectives on these issues, integrating them more fully with the languages of political power in America and in Europe. Instead of generating a Eurocentric approach, this analytical choice allows for a more profound understanding of the political implications of the debates taking place between Creole groups and royal authorities across the Iberian world.

At the center of the analysis is the political status of the American territories and the associated discourse produced throughout the sixteenth and seventeenth centuries. I will begin by tracing the constitutional place assigned to the American territories within each of the two Iberian polities. Subsequently, I will demonstrate that the political status initially ascribed to the so-called Indies soon became a matter of discussion. I will focus on the debates generated by the two following topics: first, the rank of the representative assemblies formed in the Asian and American territories under the rule of the two Iberian polities; and second, the participation of Asian and American representatives in the parliaments of Castile and Portugal. My aim is to highlight the constitutional implications of these debates.

Though less well-known than the famous theological controversy about the Amerindians held at the University of Salamanca,[9] or the polemics about the rights to Spanish dominion in the

7 Valladares (2013).
8 Cañeque (2013); see also Ross (2008).
9 Pagden (1982); Hernando Sánchez (1996).

Americas and the treatment of natives,[10] debates over the constitutional status of the American lands were just as important. Not only did they persist over an extremely long period, spanning literally the whole colonial era, they also played a major role in defining how American lands and peoples were governed, both at court and locally.

Locating America in the constitutional settlement

It is important to bear in mind that, in the sixteenth and seventeenth century Iberian conglomerates, when royal authorities agreed to respect the political order of a newly incorporated territory, they usually bestowed upon it some of the following political rights. First, the royal authorities granted the territory in question a specific territorial council at court (such as the Council of Castile, the Council of Aragon, the Council of Italy, or, after 1583, the Council of Portugal).[11] Recognizing the political status of a newly incorporated territory also meant maintaining its own particular legislative body and jurisdictional infrastructure. In some cases, such as in Aragon or Portugal, this also meant maintaining local high courts with the right to scrutinize decisions made by royal authorities in order to make sure that such decisions complied with the territory's legal order. Another dimension of this local autonomy was jurisdictional self-sufficiency; to wit, all judicial processes were resolved locally in the territory without being ultimately decided by courts located outside its jurisdiction. The word »supreme« was usually employed when referring to the courtly councils that enjoyed such self-sufficiency as, for instance, in the case of the *Supremo Consejo de Aragón*.[12] Moreover, recognizing the specificity of a newly incorporated territory could also mean respecting the right of preference for locals when making appointments to judicial courts and local governmental bodies, as well as the privilege of having members of local noble families serve in royal households. Finally, if the newly incorporated territory had royal status, recognizing its political specificity usually implied allowing its parliament to be summoned.[13]

It was in the 1520s that the Castilian Crown first began to define the constitutional status of the American lands, then in the process of being conquered by the Spaniards. The creation of the Council of the Indies, an institution of central government specialized in American affairs, was part of that process. From 1526 onward, this council played a fundamental role in the government of the extra-European territories of the Castilian crown. However, the decision to create the Council of the Indies must not be regarded as the recognition of an alleged political and jurisdictional specificity of the Indies. On the contrary, the primary motivation for the creation of this courtly council devoted to the Indies was that the section of the Council of Castile devoted to American affairs was notoriously overburdened.[14] The Council of the Indies was thus subordinated, in constitutional terms, to the Council of Castile. The inferior status of the Council of the Indies vis-à-vis the Council of Castile was also due to the fact that the territories of the Indies were regarded as less important than the Castilian ones. Those at the royal court saw America as inferior for three main reasons. First, the fact that those lands were located outside Europe made them intrinsically inferior to the Old World. Second, those lands had been incorporated by the Castilian crown more recently than many other holdings. Third, and perhaps most importantly, the incorporation of American lands had been the result of a conquest. The process of conquest established a vertical subordination between metropolitan Castile and its extra-European lands. Those living in such territories were *vassallos de conquista*, or »vassals of conquest«, as Marti Joan Franquesa, a Catalan jurist, put it in a treatise on the matter, published in 1588.[15] All these factors, in short, explain why American lands had a subordinate constitutional position in the Castilian polity.

The Portuguese central government, for its part, adopted a similar solution in that the Asian, Afri-

10 Adorno (2007).
11 Arrieta Alberdi (2012); see also Bouza (1997); and Luxán Meléndez (1988).
12 Arrieta Alberdi (1994).
13 Arrieta Alberdi (2006) 129 f.
14 Garriga (2006) 39 f.
15 Gil Pujol (1998) 482 f.

can, and American territories of the Portuguese crown were eventually deemed conquests as well, a category that, beyond referring to the way that such lands had been acquired, also relegated them to an inferior status compared to Portuguese territories on the Iberian Peninsula.[16]

The Portuguese crown took longer than its Castilian counterpart to create an institution specialized in governing its overseas territories. At the start of Portuguese rule, extra-European lands were administered by the existing central bodies of royal government based in Lisbon. Portugal's first courtly council specializing in Asian, African, and American affairs was the short-lived *Conselho da India*, created in 1604 and abolished in 1614.[17] A few decades later, in 1642, Portuguese authorities established another council specializing in overseas matters: the *Conselho Ultramarino* (Overseas Council). This body proved to be enduring and was only abolished in the twentieth century.[18]

It is important to stress that the decision to create both the Castilian Council of the Indies and the Portuguese Overseas Council did not spring from metropolitan eagerness to respect the political or jurisdictional specificity of extra-European lands, nor any desire to improve their political standing at court. Just like the African and the Asian possessions of the two Iberian monarchies, America was classified as a *conquista*. As such, and in compliance with the terms of the *ius belli*, the political and jurisdictional order of the American lands and peoples was to a great extent disregarded by Castile and Portugal. The areas controlled by Spanish and Portuguese authorities were considered mere extensions of their respective political-jurisdictional orders. Accordingly, legislation issued for the peninsular areas of Castile was automatically extended to the Indies. Likewise, the institutional model transferred to America was the institutional framework of Castile (and not the one of Aragon, Valencia, or Catalonia). Although Castilian laws were adapted to meet American needs, the model was Castilian.[19]

For those at court, the political bond between royal authority and the Indies was wholly vertical. The Indies were initially termed »conquered lands«, which meant that they were necessarily more subordinated to royal authority than the European territories included in the Iberian polities, and they also had fewer political and jurisdictional means with which to negotiate with royal authorities. Likewise, and unlike the Supreme Council of Aragon, the Council of the Indies was not classified as supreme, because it did not possess any exclusive right to intervene in the government of the American lands. As Argentinean historian Arrigo Amadori has recently pointed out in his groundbreaking study of the Castilian Council of the Indies, many other royal institutions also intervened in decisions concerning American and Asian territories.[20] From the point of view of contemporary juridical and political culture, this was a clear indication that no constitutional specificity was recognized for these territories.

However, this situation changed with the passage of time. The Creole groups of the newly formed societies in both America and Asia began to demand greater recognition of their specificity and broader political rights. Influenced by the debates taking place across the Iberian world, Creole groups rapidly started to adopt the same language in their call for more rights both at the territorial level and at court. As discussed below, they went so far as to demand a change in the constitutional arrangements that the crown had made in the initial stages of colonization. Interestingly, from the mid-sixteenth century onwards, court authorities also became increasingly willing to rethink the political status of the American territories.

I will now focus on two specific aspects of these debates: first, the controversy around the constitutional rank of representative assemblies convened in America throughout the sixteenth and seventeenth centuries, and second, the participation of extra-European representatives at the Castilian and Portuguese parliaments.

16 See, in general, Cardim (2014).
17 Luz (1952); Marques (2009) 257 f.
18 Myrup (2010); Cruz (2015).
19 Guerra (2005).
20 Amadori (2011) 54 f.

The rank of the assemblies convened in America

As stated above, the Iberian polities incorporated new lands in many very different ways. When they decided to lend a new territory a prominent constitutional place, they usually granted it the right to maintain its representative assembly. That was the case of territories like Castile, Aragon, Catalonia, Valencia, and Portugal. Though all these territories were subjected to the rule of the Spanish monarch, authorities decided to respect their political status, and those territories were accordingly allowed to continue convening their parliaments, the so-called *Cortes*. Additionally, and because these territories were considered royal, they also received the guarantee that their parliaments would be always summoned and presided over by the king himself, not by a representative.[21] As a matter of fact, throughout the sixteenth and seventeenth centuries the king made several journeys to these territories, and the main purpose of such royal visits was to summon the local parliament.

The other European territories ruled by the Spanish monarchy but located outside the Iberian Peninsula, such as the kingdoms of Sardinia, Naples, and Sicily, were also allowed to maintain their own parliaments. However, instead of making the journey to Italy, the king usually delegated this task to a representative, usually a viceroy or governor.[22] Needless to say, this decision had constitutional implications. Though preserving an assembly that was clearly a mark of their regal status, Naples and Sicily were clearly subordinate when compared to the territories located in the Iberian Peninsula, primarily because of the fact that the king was not obliged to personally call their parliaments into session.

Regarding the Iberian lands located in America, it is well known that the Castilian authorities created a series of kingdoms right after the initial conquest, and the two major ones were headed by viceroys.[23] However, none of these American kingdoms had a political status equal to that of their European counterparts. In spite of being classified as kingdoms, these American lands were treated as mere provinces of Castile, and their specificity was not recognized at the level of central government.[24] Nor did authorities in Portugal recognize any kind of constitutional specificity for their African, Asian, and American holdings, though some were also classified as kingdoms.[25]

Because no specific constitutional status was recognized in the case of Castile and Portugal's extra-European lands, no lawful royal parliament could be summoned there in principle. Additionally, it is important to bear in mind one fact that, while obvious, had important political implications: throughout the sixteenth and seventeenth centuries, the royal parliament was always summoned in the peninsular lands of Portugal and Castile.[26] Despite the fact that extra-European lands were regarded as political extensions of the peninsular territories, on a few occasions authorities considered calling parliament into session in an American land. No such measure was ever taken, not only because it would call for the king to leave Europe and travel to another continent, but also because allowing a royal parliament to be summoned in one of the American territories would be equivalent to ascribing it a political status that the Indies simply lacked.

However, and in spite of royal reluctance to summon American parliaments, the sixteenth and seventeenth centuries saw a very interesting debate about the possibility of city councils convening representative assemblies on American soil. This debate was particularly precocious in the case of Castile.

It is important to begin by saying that, in both Portugal and Castile, cities were allowed to summon regional representative assemblies. In other words, in parallel to royal parliaments (the *Cortes*), there were various representative assemblies of a lower rank, with a regional scope, usually classified as *juntas*. The main purpose of such gatherings was to solve common problems, as well as to coordinate a common strategy regarding royal policies in

21 On the *Cortes* of Portugal, see Bouza (1987).
22 See Sabatini (2012).
23 Cañeque (2003) 70 f.
24 On the political overtones of the term »province« in Iberian political culture, see Elliott (2012) 31 f.
25 Guerra (1995) 212 f.
26 See in general Cardim (1998).

a certain region. In some parts of peninsular Castile and Portugal, assemblies of city representatives became rather frequent events. One particular feature of such gatherings was the fact that they were usually summoned by a royal authority, but never by the king. As a matter of fact, the king usually did not have any direct relation with these assemblies. And again, they were never classified as *Cortes*, and generally dubbed »*juntas*« or »*congresos*«.

To repeat: the two American viceroyalties, Mexico and Peru, were classified in political terms as extensions of peninsular Castile. So at least in theory, American cities also had the right to summon representative assemblies. And in fact, in the early days of colonization some American cabildos started to convene municipal assemblies, more or less informally. In response, royal authorities rapidly attempted to discipline these gatherings, declaring that they could only take place when summoned by a royal representative.

Such measures were first implemented in New Spain during the 1530s and spread to the viceroyalty of Peru a few years later. In April 1540, viceregal authorities in Peru selected the cities eligible for such gatherings, stressing that the cabildo from Cuzco would be the most prominent.[27] Significantly, these assemblies were not called *Cortes*. Instead, contemporaries used words like »*junta*« or »*congreso*« to classify them, terms that again denoted a representative assembly with a rank inferior to that of the *Cortes*, the royal parliament. Moreover, whereas the royal parliaments convened in the Iberian Peninsula were always summoned and presided over by the king, the juntas of American city councils were summoned and presided over by a viceroy or by a governor.

It is no accident that the king never travelled to America in order to summon the royal parliament in the two Spanish viceroyalties. To begin with, the voyage was too long and too dangerous. However, and as mentioned before, the main reason was constitutional: from a European perspective, the *Cortes* was institutionally associated with royal territories. Therefore, to authorize the summoning of a royal parliament in colonial America would be equivalent to recognizing a political status in the Indies similar to the territories on the Iberian Peninsula.

In spite of this, at various points throughout the sixteenth and seventeenth century royal authorities went so far as to consider authorizing an assembly with the rank of a royal parliament in America to be summoned not by the king but by the viceroy. Precisely this happened in 1559, and the aim was to bolster Peru's involvement in the fiscal measures being implemented by the Castilian crown.[28]

As already indicated, instead of being summoned and overseen personally by the king, an assembly of this sort would be led by the viceroy. This solution mirrored the procedure used in territories like Naples, Sardinia, and Sicily, where parliaments were summoned and presided over by Spanish viceroys. In any case, maintaining a parliament was always interpreted as an indication that, although subordinated to the Spanish monarchy, these territories possessed royal status as well as a considerable degree of political and jurisdictional autonomy. Allowing a similar solution in Spanish America would obviously be the first step on the road to granting those lands more political autonomy.

A few years later at the end of the 1560s, the issue came up again, this time in the viceroyalty of Mexico. The viceroy, the Marquis of Falces, informed the cabildo of Mexico that the crown was considering the possibility of convening such an assembly in America.[29] Similarly to Peru, the objective was to increase the cities of New Spain's fiscal contributions to the Castilian crown. In February 1567 the cabildo replied that Mexico would participate in such an assembly only if the monarch agreed »to make this province a kingdom of its own« (»…*hacer esta prouincia reyno de por sí*…«). In other words, the Mexican cabildo was calling for the viceroyalty of New Spain to be converted into a kingdom of its own (*reino de por si*), just like the ones that existed in Europe, such as Naples or Sicily. Unsurprisingly, royal authorities rejected this proposal.[30]

In any case, from the last quarter of the sixteenth century onward the possibility of granting the Spanish American territories with a specific political and jurisdictional status was discussed

27 Díaz Remetería (1992).
28 Lohmann Villena (1947).
29 Hanke (ed.) (1976) 173–174.
30 Lohmann Villena (1989) 34 f.

more frequently than is usually thought. In parallel, the term »conquest« continued to be used, but generally in reference to the native population, not the Spaniards residing in America. Significantly, in the *Ordenanzas de nuevas poblaciones y descubrimientos* (1573) the word »*conquista*« was replaced by the term »*pacificación*«. In other words, in Spanish America two realities coincided: a kingdom with *naturales* and a *conquista* with its own *naturales.*[31]

It is important to bear in mind that the debates about the status of American territories were not always motivated by constitutional reasons.[32] In 1609 for instance, the viceroy of Peru, the Marquis of Montesclaros, rejected the possibility of summoning the *Cortes* there. According to Alejandro Cañeque, many viceroys »feared that the convocation of *Cortes* would mean a curbing of their powers …«[33] Likewise, Arrigo Amadori recently pointed out that members of the Council of the Indies often voiced constitutional claims at royal court above all as a means to assert their own political influence in Madrid.[34] These two examples demonstrate that the debate over constitutional matters could also be determined by the balance of power within the royal administration.

The fact that the ecclesiastical milieu was increasingly affected by royal tax policy drew many American clergymen into these debates. Various Creole claims also came from the universities in Mexico and Peru. One clergyman went so far as to declare that »*éstos reinos de las Indias son de por sí independientes de España y no subalternos, y así principalmente se ha de mirar por el bien de esta república sin subordinarla a otra ninguna*« (»these kingdoms of the Indies are in truth independent of Spain and not subaltern [to it], and one must thus defend this body politic, without subordinating it to any other«).[35] In spite of statements like this one, the sixteenth century saw only *juntas* or *congresos* convened in America. Significantly, the term »*Cortes*« was never used to classify these assemblies.

Later on during the 1620s and 1630s, debate about the political status of the Castilian territories in America clearly intensified. One of the topics at the center of the controversy was the very concept of conquest being discussed in various contexts. There are almost no references to the Americas in the famous *Gran Memorial* (1624), a document that devotes just a single passage to the so-called »kingdoms of the Indies«, in which it is said that American territories were »almost one in Castile« (»*casi uno en Castilla*«). In other words, Olivares recognized no political specificity in the Indies and regarded them as mere provinces of Castile. The American territories therefore fell under the umbrella of Castilian policy as a whole.[36]

It is important to bear in mind that it was precisely in this context that the jurist Antonio de León Pinelo wrote his *Discurso sobre la importancia, forma, y disposición de la Recopilación de Leyes de las Indias Occidentales* … (1623), an attempt to systematize the laws produced in the Indies and thus strengthen the specific constitutional personality of American lands.[37] León Pinelo also defended the right of preference for Creoles when making appointments to judicial courts and local governmental bodies.

By that time the particular character of the laws produced in Peru and Mexico was becoming more visible, and the same applies to the decisions made by the Council of the Indies. Likewise, the categories of *naturales de Perú* and *naturales de México* were also becoming more relevant, for example, when the Council of the Indies selected candidates to offices, or when it allowed or prohibited those in exercise in America to marry local women. In official terms there were no *naturales de México* or *naturales de Perú*, only *Castilians* or *Spaniards*. However, in daily administrative practice such categories did exist and were operative.[38]

A few years later, Juan de Solórzano Pereira, a prominent jurist and himself a member of the Council of the Indies, published several treatises devoted to the political status of the American territories. In *Memorial, y Discurso de las razones que se ofrecen para que el Real, y Supremo Consejo de las Indias deva preceder en todos los actos publicos al*

31 I thank Tamar Herzog for her insightful comments on this matter.

32 See Latasa Vassallo (1997). See, also, Latasa Vasallo (1999).

33 Cañeque (2003) 288–289; on Montesclaros, see Latasa Vassallo (1999) 122–124.

34 See Amadori (2011).

35 Quoted by Amadori (2011) 305; see also Lavallé (2008) 214 f.

36 Ramos Pérez (1967) 180 f.

37 On León Pinelo, see his *El Gran Canciller de las Indias*, [1629], ed. Lohmann Villena (1953); Schäfer (2003). On the legislation issued by Spanish American institutions, see Griffin (1887).

38 On this topic in general see, Herzog (2004). On the circulation of Creole claims between Spanish and Portuguese America, see Cardim (2008).

que llaman de Flandres …, Solórzano claims, using very erudite arguments, that Spanish American territories already deserved a certain constitutional upgrade. After comparing the political status of the Indies with that of other Spanish territories, Solórzano concludes that America, given its contribution to the Spanish monarchy as a whole, should be treated more respectfully. Solórzano proposed that the authorities recognize the prominent rank of the American viceroyalties within the Spanish polity by granting them more political autonomy. He also proposed that the Council of the Indies be classified as supreme as a sign of jurisdictional autonomy.[39]

Solórzano also provides a reinterpretation of the idea of conquest. To those who argued that the Indies had no political autonomy because those living there were conquered vassals, he replied that the condition of being conquered implied assimilation as an intrinsic part of Castile/Spain. According to Solórzano, the American lands were so deeply assimilated that they shared the dignity and antiquity of Spain itself. He also argues that the Spanish Americans, like the Peninsulars, also had the Visigoths as ancestors and would thus share the prestige and the preeminence of the Spaniards.[40] At around the same time, when Neapolitans and Sicilians complained about the increasing interference of Spanish authorities, they argued that they did not want to be treated as if they were Amerindians.

It is significant that some royal representatives in America also participated in the debate over the constitutional status of American lands. In the late 1620s, the Count of Chinchón was appointed viceroy of Peru, with his main mission being to increase the contribution of Peru to royal fiscal policy. Although he represented royal authority in Spanish South America, Chinchón saw representative assemblies as indispensable to the peaceful implementation of Castile's fiscal measures. During the long period he remained in Peru, which lasted almost throughout the 1630s, Chinchón developed a very close relationship with the cabildo of Lima.[41] In the letters he exchanged with the Council of the Indies he acknowledged that America did not have an assembly with the rank of a royal parliament because American lands were politically inferior to the peninsular Spanish territories. He also recognized that the king's authority was »more absolute« in America than in Europe, a sign of which was the absence of representative assemblies in the New World.[42]

As for New Spain, the viceroy, the Marquis of Cerralvo, also attempted to increase Mexico's contribution to royal fiscal policy in 1628. The cabildo of Mexico discussed the viceroy's proposal, and 6 out of 17 *regidores* suggested that the *Cortes* be summoned in Mexico. However, Cerralvo rejected the idea and reacted with indignation, declaring that such a resolution did not comply with royal orders.[43]

In the seventeenth century Iberian world, the term »absolute« was usually employed to identify those who supported unfettered royal authority. However, just after making the above mentioned statement, the viceroy of Peru declared that he considered it time to change the situation, namely by granting the main American cities the means to negotiate fiscal measures, just as had happened in Europe. Even as the representative of royal authority in Peru, Chinchón supported a negotiated authority, embodied in his summoning of an assembly of representatives of the most important cities across Spanish South America.[44]

The Council of the Indies, in its answer to the viceroy of Peru, explicitly reiterated that American lands had no royal parliaments, only *juntas* or *congresos* without the presence of the king, precisely because those territories were inferior to the ones located in Europe. Moreover, the Council of the Indies added a highly significant detail: unlike the royal parliament, the *juntas* were to be summoned only when the viceroy or the governor considered it convenient, and their decisions were not binding.[45]

39 Memorial, y Discurso de las razones que se ofrecen para que el Real, y Supremo Consejo de las Indias deva preceder en todos los actos publicos al que llaman de Flandres … Año 1629 … published in: Solórzano Pereira (1676) 365 f.; on this treatise, see Barrios (2002); Mazin (2012) 37 f.

40 Fernández Albaladejo (2007).

41 On Chinchón, see Amadori (2011) 302 f.

42 Bronner (1967).

43 Cañeque (2003) 70.

44 Amadori (2011) 303 f.

45 Bronner (1967) 1139 f.

Although an increasing number of voices called for a change to the political status of the Castilian territories in America, authorities prevented a royal parliament from being summoned in Mexico or Peru. Admitting that possibility would have effectively established a sort of parity between the American territories and the lands held by the Spanish monarchs in Europe. This would have meant accepting that each of the Spanish American viceroyalties was a *reino de por si*, a territory with its own political constitution and with a higher degree of autonomy vis-à-vis metropolitan Castile.

In terms of the Portuguese context, it is important to begin by saying that there were no debates comparable to the ones that I have just mentioned for Spanish America. As far as I am aware, authorities never considered summoning an assembly with the rank of a royal parliament in any of the territories that Portugal possessed in Asia, America, or Africa, nor did they consider having the king travel to America or to Asia, to say nothing of Africa, to summon a parliament there. By the late seventeenth century some royal counselors also argued that the presence of the Portuguese king in a territory as inferior as America could damage the reputation of the Portuguese royal family.

In any case, recent research has confirmed a substantial number of gatherings of city council representatives in places as disparate as southern Portugal, the Azores, Bahia, Rio de Janeiro, Maranhão, and Goa (in Asia). Similarly to what was happening in the Castilian context, some of these assemblies were summoned by royal representatives, but many were also the result of the initiative of city councils.[46] Significantly, the word that was always chosen to classify such gatherings was »*junta*«, never »*Cortes*«.

Admitting extra-European representatives to parliament

Another matter that generated debates about the constitutional status of Asian, American, and African territories ruled by the Iberians was the possibility of representatives from those lands participating in the royal parliaments held in the Iberian Peninsula. As conquered lands and extensions of the Castilian and Portuguese territories, the main cities of Spanish and Portuguese America, Asia and Africa were in principle allowed to participate in the representative assemblies convened in the Iberian Peninsula. However, this proved to be a point of controversy, and the ensuing debates are related, once again, to the political status of extra-European lands.

It was in the early sixteenth century that several American cabildos first requested authorization to take part in the royal parliament in Castile. According to Woodrow Borah, in 1518 an assembly of municipal councils from Santo Domingo expressed their desire to send a representative from the island, a *procurador general*, to the *Cortes* in Valladolid.[47] However, participation in parliament depended on royal consent, and the request was ultimately denied.

Some years later in September 1528, the cabildo of Mexico also requested a seat in the Castilian parliament. After some hesitation, royal authorities eventually allowed a few cabildos from Spanish America to send their representatives to Parliament.[48] Despite the authorization, no representative ever made the journey. The reasons for this include a lack of time to travel to Europe, the cost of a long stay in Castile (the parliament usually lasted several months) and the fact that, from the mid-sixteenth century onward, the *Cortes* became increasingly involved with the taxes to be levied across peninsular Castile. Spanish American Creoles feared that, by taking part in the parliament, they too would be targeted in the fiscal agreements coming out of the assembly.

Some decades later, by the end of the sixteenth century, the Castilian parliament had a new scope, and participation in it became an increasingly attractive prospect. Several regions from peninsular Castile that had long ceased sending representatives sought to reclaim their right to participate in the assembly,[49] as happened across Spanish America.

Significantly, around this time royal authorities also displayed more interest in summoning the representatives of a few American cities to the *Cortes* of Castile. Their aim was to strengthen the

46 Bicalho / Cardim / Rodrigues (2016).
47 Borah (1956).
48 Lohmann Villena (1989) 33 f.
49 On the case of Galicia and its representatives at the Castilian parliament, see Saavedra Vázquez (2004).

political bonds between the Spanish monarchy and its American territories as well as to include them in the new fiscal measures introduced during that period. Therefore, over the first decades of seventeenth century and particularly during the reforms implemented by the Count-Duke of Olivares, many proposals circulated at royal court suggesting that the king should summon some American cities to parliament for these purposes.

A few royal representatives in America were eager to do so. In a letter dated March 1633, Chinchón, the Viceroy of Peru, proposed that the four cities bearing the status of head of the viceroyalty (of Peru) should have their representatives summoned to the Castilian parliament. Similar measures were envisaged in Mexico over the same period, involving areas that were the seat of high courts (Mexico, Santo Domingo, Nueva Galicia, and Manila).[50] In spite of these proposals, no representative of a Spanish American city council ever participated in the Castilian parliament.

As for the Portuguese parliament, as far as I am aware, the sixteenth century brought no comparable controversy. However, from the mid-seventeenth century onward there were a few very interesting debates about the possibility of admitting Asian and American representatives in the royal parliament summoned in Lisbon.[51]

One of the first references to the possibility of admitting a representative from an extra-European city council into the Portuguese parliament dates back to the 1640s. In 1643, the city council of Rio de Janeiro sent a dispatch to royal authorities in Lisbon requesting authorization to send a representative to parliament. The king denied the request, however, on the grounds that this privilege had not been yet granted to Salvador, the capital of Portuguese America. In 1646, crown attorney Tomé Veiga argued that Bahia deserved to be represented at the Portuguese parliament, but no royal representative from Brazil participated in that year's parliament.[52]

The Asian city of Goa, however, had its representatives summoned after insistent requests from its city council. The two permanent agents of Goa's city council in Lisbon were made representatives at the royal parliament of Portugal. Therefore, at the parliament convened in Lisbon in 1645, they were treated as representatives of the ensemble of the so-called »*Estado da Índia*«.

In 1653, the friar Mateus de São Francisco, a prominent clergyman in Portuguese America, again requested a parliamentary seat for a representative of Brazil. A few months later, King John IV eventually decided to summon a representative from Salvador da Bahia to the Portuguese parliament. However, royal authorities never clarified whether the man was there in the name of the Bahian city council or representing Brazil as a whole. Both the Bahian and the Goan representative thus operated under an ambiguous political-jurisdictional state of affairs.

In the years that followed, there were indications that the Bahian city council valued its parliamentary participation. The Creoles from Bahia attempted to improve the city's rank at the representative assembly. A dispatch sent to the city's agent in Lisbon, for example, dated March 1673, includes several complaints about Bahia's position in the opening ceremony of the parliament.[53] The municipality of Bahia was upset by the fact that its representative was given a seat in the fifth row of chairs, far from the monarch and from metropolitan Portugal's most prominent cities. It claimed that the city certainly deserved the same rank as Goa, and Bahian council members recalled that Salvador was the head of the so-called *Estado do Brasil*, a territory that, they argued, was by then more important than Portuguese holdings in Asia. The Bahians presented another reason justifying their city's preeminence compared to the Asian territories ruled by the Portuguese: they were contributing large sums of tax money to the Crown. They also pointed out Brazil's preeminence in the Portuguese body politic, visible in the fact that the heir to the Portuguese throne had, since 1645, borne the title »Prince of Brazil«. It is also significant that, from 1640 onward, an increasing

50 Lohmann Villena (1989) 36 f.
51 Cardim (2013).
52 I thank Thiago Krause from the Fundação Getúlio Vargas, Rio de Janeiro, for sharing this information with me.
53 Arquivo Municipal de Salvador da Bahia, Brazil, Cartas do Senado; published as Documentos Históricos do Arquivo Municipal de Salvador. Cartas do Senado, Salvador: Câmara Municipal de Salvador da Bahia, 1951.

number of royal representatives in Brazil bore the rank of viceroy. Being governed by a viceroy, and not a mere governor-general, was certainly a political promotion for Brazil.

In spite of the participation of representatives from Salvador, Goa, and, starting in 1674, also from São Luis do Maranhão in the north of present-day Brazil, most parliamentary debates focused on matters related to metropolitan Portugal, with almost no discussion of any overseas issue. As a matter of fact, a close analysis of the minutes of all Portuguese parliaments convened over the sixteenth and seventeenth centuries reveals that, although present, none of the American or Asian representatives ever intervened in parliamentary debates.[54] In any case, in the early eighteenth century the English historian John Oldmixon suggested that the English crown might follow the example of its Portuguese counterpart and grant political representation to some North American city councils.[55]

Portuguese America did not consequently witness a debate comparable to the one that took place in Mexico and Peru about the constitutional status of American territories partly because, in constitutional terms, the Portuguese monarchy was much less heterogeneous than its Spanish counterpart. However, throughout the second half of the seventeenth century there was increasing debate about fiscal and financial matters in Brazil with clear political implications. In the discussions about tax policy in Portuguese America, local authorities in Brazil ended up calling for change in the political status of America in the Portuguese monarchy.

It is worth noting that documents produced by Brazilian municipalities in the context of the debates about fiscal affairs include an increasing number of expressions of local identity, of attachment to Brazil, and also of commitment to local points of view. Bahia's city council, for instance, increasingly referred to Bahia natives as *Filho[s] do Brasil* or *Filho[s] deste Estado* in its exchanges with royal authorities. Both expressions referred primarily to persons of Portuguese origin born in America. However, on many occasions they also included those living in Bahia, regardless of their birthplace (the so-called »*moradores*«, or residents).[56]

Documents from the second half of the seventeenth century also include complaints about discrimination against Brazilian residents, for instance in juridical settings. In a dispatch dated August 1671, Bahia's city council complained bitterly about a rumor circulating in Salvador, saying that royal authorities had decided that no son of Brazil would ever be made magistrate in his homeland. The council classified the decision as an offense and demanded that those born or living in Brazil be treated the same as inhabitants of metropolitan Portugal.[57]

It is important to bear in mind that the debates about Brazilian origins or Brazilian residency also took place in the ecclesiastical milieu and especially in religious orders. Rivalry between *filhos do reino* (sons of metropolitan Portugal) and *filhos do Brasil* intensified in the religious orders from the 1660s onward, and it is more than likely that these disputes ended up having an impact on colonial society as a whole. Nevertheless, it is important to stress that whenever some sort of Brazilian identity was invoked, it referred more to feelings of attachment to the local or regional sphere of a prominent city than to the whole of Brazil.

Apart from tax policy, another issue that sparked debate as to Brazil's political status was the shortage of silver coins in Portuguese America. From the 1650s onward, Salvador's city council repeatedly asked for authorization to coin provincial silver pieces because Bahia was coping with a very serious currency shortage. Tensions generated by the shortage of coins began to loom larger in the dispatches sent to Lisbon, while the tone of the letters became increasingly bitter.

54 Cardim (2016).

55 »What a Figure have the Portuguese made in Europe, since the Dutch drove them in a great Measure out of their East-India Trade, in comparison to their Strength and Riches, while they were in Possession of it? The Portuguese have so true a notion of the Advantage of such Colonies, that to encourage them, they admit the citizens of Goa to send deputies to sit in the Assembly of Cortez: And if we were ask'd, Why our Colonies have not their Representatives? who could presently give a satisfactory Answer?« Oldmixon (1708) XXXIV–XXXV. On John Oldmixon's remark about the Portuguese Cortes, see Pagden (1995) 111. I thank Thiago Krause for this reference.

56 The bibliography devoted to Creole identity is extremely vast. See Lavallé (1982); Lavallé (1993); see, also, Ponce Leiva (1997); Alberro (1992); Herzog (2003). For a recent assessment, see Bauer / Mazzotti (2009).

57 On the Bahian case throughout the seventeenth century, see Cardim / Krause (2016).

In a letter sent to their agent in Lisbon, dated July 1679, the Bahian city council once again compared Salvador with the Asian municipality of Goa in Asia, and stressed that, while there were three mints in Goa, Bahia had not a single one. Bahia's city council argued that this situation was simply not reasonable: Portuguese America was richer and more profitable than Portuguese Asia in fiscal terms for the crown.

It is important to bear in mind that requesting authorization for provincial coinage (*moeda provincial*) had both financial and political implications. Apart from solving the currency shortage, having a *moeda provincial* would also be a way to assert Brazil's position among Portuguese territorial possessions. There were even names proposed in Brazil for such a currency, including one extremely symbolic option: *Braziliana*.

Throughout the 1680s, and as the crisis in the sugar sector and the coin shortage worsened, the correspondence became even tenser. In a dispatch from August 1688, the Bahian city council once again recalled the large sums that Bahia was paying in taxes to the crown and instructed its agent to explain to the Portuguese king that the Bahians were not conquered vassals. Following this impressive (and aggrieved) statement, the city council once again compared its status to that enjoyed by other Portuguese territories. Apart from the pactist overtones of this letter and many others, the victory over the Dutch in Brazil is presented as more important than the initial conquest of that part of South America, given its greater difficulty.[58] The Bahian elite thus implied that the victory over the Dutch, at the expense of the Brazilian Creoles, had transformed the political bond between metropolitan Portugal and its territories. Bahian Creoles argued that this demonstration of fealty made it almost obligatory to alter America's constitutional status in the Portuguese monarchy. It was time to move beyond the initial moment of conquest and grant Portuguese South America a political status almost equivalent to the one shared by metropolitan Portuguese territories.

It is important to bear in mind that the term »conquest« was by then generating increasingly negative reactions across the Iberian world, precisely because it was associated with unlimited authority and unrestrained use of force, often dubbed »absolute«. As a result, and similarly to what had happened by the last quarter of the sixteenth century in, for instance, the *Ordenanzas de nuevas poblaciones y descubrimientos* (1573), the *Recopilación de leyes de los reynos de las Indias …* (1680), it was determined that the word »conquest« no longer be used in official documents, particularly those referring to the governing of indigenous peoples and was to be replaced by the term »pacification«.[59] The term »conquest« was too connected with Spanish (and Portuguese) violence and arbitrary rule over the native peoples of America.

Epilogue

Before concluding, I must say that this controversy continued over the eighteenth century, though following other paths and focusing on other areas.[60] This was a time when the European part of the Spanish monarchy underwent a profound constitutional change, as Bourbon reforms brought greater political and jurisdictional homogeneity. However, the American territories continued to call for greater autonomy at a time when the relationship between the Iberian Peninsula and its American lands began to be conceived more in terms of the dichotomy *metropolis – colony*, two terms that were employed more frequently from the first decades of the eighteenth century onward.

It was also a time of decreasing political relevance for royal parliaments across the Iberian world: in Portugal the king never summoned the parliament during the eighteenth century, while in

58 Mello (1997).

59 Recopilación de leyes de los reynos de las Indias (1680), Libro 4, Título I, Ley 6. According to Anthony Pagden, »… most Europeans were unhappy with the idea of conquest as a source of legitimation or as an adequate legal description of the delicate relationship between the settlers, the indigenous populations (where there were thought to be any), and the metropolis«, Pagden (2004) 259–260.

60 Garriga (forthcoming).

Spain the Castilian *Cortes* barely convened.[61] In Spanish and Portuguese American territories alike, cities continued to gather in *juntas* and *congresos*. In some cases, such as in different parts of colonial Brazil, the Creoles went so far as to seriously consider the possibility of summoning a parliament there in order to negotiate fiscal measures. Significantly enough, Portuguese authorities always rejected such claims with great vehemence.[62]

Needless to say, by the turn of the century the political status of the American lands became an even more central topic of debate, both in the Iberian Peninsula and in colonial Iberian lands. In 1783, the Count of Aranda, in a well-known secret report sent to King Charles III of Spain, proposed the division of Spanish America into three independent kingdoms, each governed by a prince from the Spanish royal family. More or less around the same period, Rodrigo de Sousa Coutinho, the Portuguese Secretary of State of the Navy and Overseas Dominions, advocated the creation of a so-called »United Kingdom of Portugal, Brazil and the Algarves«. This new political entity would eventually be created in 1815, following the transfer of the Portuguese court to Brazil during the Napoleonic invasions of Portugal. Needless to say, the presence of the whole royal family of Portugal in Rio de Janeiro, from 1808 onward, had important constitutional implications for Brazil.

The integration of America into the Iberian conglomerates generated a long and complex debate, both at court and in America. Such debate lasted until the end of the colonial period, focusing on a number of subjects and adopting a variety of approaches. Here, I have focused on one of the many dimensions of such debates: political representation and how it was understood in monarchies with a pluri-continental character. As I suggested, the debates that took place were obviously strongly influenced by the controversy within the Spanish monarchy regarding its internal constitutional arrangements. However, it is clear that the Creole groups of Spanish and Portuguese America were extremely active participants in these debates about the constitutional status of American lands.

Seen from the perspective that I have explored in this essay, the relationship between the Creole groups and authorities in Madrid or Lisbon ends up resembling the one established by the ruling groups of Spain's European territories.[63] With the passage of time, institutions dealing with American affairs were able to develop an increasingly distinct political and jurisdictional personality. This aspect, together with the fact that American lands were never home to a major secessionist rebellion during the seventeenth century, could well have nudged America along a path similar to, say, Navarre, a land initially conquered that eventually evolved to a *reino de por sí*.[64] However, distance from Europe, the vastness and diversity of the Indies, the ethnic and cultural specificity of American peoples, and increasing northern European interest in American lands made authorities in Europe tighten their control over Creoles, instead of granting them greater political power.

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61 Thompson (1986); Fortea Pérez (2001).

62 Figueiredo (2015); see also Schultz (2015) 13 f.

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64 On this process see Fernández Albaladejo (2012).

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